

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 2, 1981

The seventeenth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

DISPOSITION OF SENATE BILL 24:

Proposed amendments were introduced into the record (marked Exhibit A and attached to these minutes). Senator Mazurek moved that the amendments pass, and his motion carried unanimously. Senator Mazurek then moved that the bill DO PASS AS AMENDED, and the motion carried unanimously with Senators S. Brown and Halligan absent at the time of the vote.

CONSIDERATION OF SENATE BILL 164:

AN ACT TO PROVIDE FOR THE PAYMENT OF
DELINQUENT COURT-ORDERED CHILD SUPPORT
BY DEDUCTION OF PAYMENTS FROM THE
INCOME OF THE OBLIGOR.

Senator S. Brown, principal sponsor, presented the bill, saying the need for change stems from the fact that a jail sentence does not solve the problem of unpaid child support payments, and that employers frequently do not withhold child support from wages.

Bob James, Great Falls attorney who does a lot of collection of child support for the Department of Revenue, then said that the Department of Revenue supports passage of the bill. He stated that seventy-five percent of all men who are divorced do not pay child support. This represents ten million children in this country who are being raised without the assistance of child support, which brings an increase of welfare payment for these dependent families. He recommended passage of the bill.

Virginia Jellison, from Missoula, spoke in support of the bill, citing her own experience as a divorced parent raising her four children without benefit of child support.

Linda Armstrong, Helena, also spoke from personal experience in supporting the bill, but would recommend an amendment in

Section 4, changing the six-month waiting period to three months.

Senator Crippen said that he did not like the burden for enforcement of child support collection to be placed on the employer. Senator S. Brown responded that, as this had not been the original purpose of the bill, language changes could be incorporated to alleviate his doubts. Bob James agreed that the intent was not to burden the employers, and that an amendment to clarify this would be in order. It was suggested that in Section 11, rather than employer "is liable" it should read "may be liable". Senator Crippen also felt that there was a problem regarding the time element involved in getting such a case on the docket, protesting the judgment, etc., and could foresee a two-year delay in actually getting anything done. He would be in favor of allowing the process to be initiated earlier, perhaps in two months after failure to make the payment, and would support a motion to that effect.

Senator Crippen then asked whether an employer would be considered liable for missed child support payments prior to his employing the defendant. Senator S. Brown stated that the intent of the bill had been only that the employer be responsible, should he fail to honor the lien, for the entire amount which became due under his employment of the defendant, not for prior obligations.

CONSIDERATION OF SENATE BILL 174:

AN ACT TO SUBJECT INSURANCE COMPANIES
NOT COMPLYING WITH SECTION 75-10-520,
MCA, RELATING TO DISPOSAL OF MOTOR
VEHICLES, TO MISDEMEANOR PENALTIES.

Senator Hager, District 30, Yellowstone County, presented the bill.

William Romine, representing the Montana Automotive Dismantlers and Recyclers Association spoke in support of the bill, stating that there was a problem in this area, even though it was not a huge problem.

Valencia Lane, from the Montana Department of Insurance, said that her department knows of only one complaint in this area, and that was handled with a phone call, so the need for this bill is questionable.

Larry Mitchell, with the Department of Health, the agency currently charged with administering the present law, stated that he hoped that this bill would not place added demands

on his department for enforcement of the law.

FURTHER CONSIDERATION OF SENATE BILL 120:

Senator Mazurek stated that he feels that the entire discretion of selecting jurors should be left up to the judge, not the clerk of court acting as a jury commissioner.

Senator Crippen agreed that excusing jurors is a judicial responsibility.

Senator S. Brown suggested amending the bill on page 3, line 22 by inserting "." following "commissioner"; striking the remainder of line 22, all of 23, 24, and 25, and inserting "The court may delegate to the jury commissioner the authority to select the panel and excuse jurors under Section 3-15-313, and generally take charge of the jury administration in the presence of a person designated by the court."

Senator Mazurek felt that the passing of the determination from the judge to the jury commissioner is bad.

Senator Anderson stated that he feels that the clerks are making most of these decisions anyway, and that the problem is not a big one. He further stated that judges are currently getting a lot of pressure to get their work done in a shorter period of time, and that passage of this bill would help them to do so.

The amendments put forward by Senator S. Brown were then voted on (see the roll call vote attached to these minutes). The motion passed six to four in favor of the amendments. At this point Senator S. Brown said that before moving on the bill he would talk with Tom Harrison, lobbyist for the judges, regarding their opinion of the amendment.

Senator Berg said that he would ask for a fiscal note to determine the impact if the fees are increased through passage of SB 120.

A handwritten signature in cursive script, appearing to read "Mike Anderson", is written over a horizontal line.

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/28/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME:

DATE : _____

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: John A. Roberts DATE: 2/21/51

ADDRESS: 921 Highland St. - Seattle Wash

PHONE: 544-0050

REPRESENTING WHOM? None

APPEARING ON WHICH PROPOSAL: S. P. 1. 21

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: William C. Parvise DATE: 2-2-81

ADDRESS: P.O. Box 1691 Helena

PHONE: 442-2220

REPRESENTING WHOM? Mont. Automotive D. matters & Recyclers Assn.

APPEARING ON WHICH PROPOSAL: S.B. 174

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: the Assn. supports S.B. 174. Under the present law,
if an insurance company violates the wrecking yard act,
the only recourse available is thru the insurance commissioner's
office. Although his powers are great, most likely he would
not cancel an insurer's right to do business in Mont, because
of a violation of the act. Under this bill, local problems
could be handled locally.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Exhibit H

AMENDMENTS TO SENATE BILL 24

1. Title, line 6.

Following: "3-15-313,"

Strike: "and"

2. Title, line 6.

Following: "3-15-505"

Insert: "3-15-507, 46-16-301, and 46-16-304"

3. Page 1, lines 11 through 17.

Strike: lines 11 through 17

Insert: "3-15-312. Discharge by court. The court must discharge a person from serving as a trial juror in either of the following cases:

(1) when it satisfactorily appears that the person is not competent; or

(2) when it satisfactorily appears that the person is exempt-and-claims-the-benefit-of-exemption should be excused under 3-15-313 or 3-15-507."

4. Page 1, line 19, through line 2 on page 2.

Strike: line 19 through line 2 on page 2.

Insert: "3-15-313. Who may be excused -- affidavit to claim excuse. A-juror-must-not-be-excused-by-a-court-for-a-slight-or-trivial-cause-or-for-hardship-or-inconvenience-to-his-business-but-only-when-material-injury-or-destruction-to-his-property-or-property-entrusted-to-him-is-threatened-or-when-his-own-health-or-the-sickness-or-death-of-a-member-of-his-family-requires-his-absence (1) The court shall excuse a person from jury service upon finding that jury service would entail undue hardship for the person or the public served by the person.

(2) If a person believes jury service would entail undue hardship for him or the public served, he may make and transmit an affidavit to the clerk of the court for which he is summoned stating his occupation or such other facts as he believes will excuse him from jury service. The affidavit shall be filed with the clerk of the court who shall transmit it to the court. The court may excuse a prospective juror from jury service if the prospective juror satisfies the provisions of subsection (1).

(3) A person may also be excused from jury service upon presentation of his excuse to the court as provided in 3-15-507.

5. Page 2, lines 7 and 8.

Following: "designates."

Strike: the remainder of line 7 through "3-15-314." on line 8, page 2.

Insert: "He may attach to the notice a form for an affidavit claiming an exemption excuse, as provided for in 3-15-314 3-15-313."

6. Page 2, lines 13 through 16.

Strike: All of Section 4.

Insert: "Section 4. Section 3-15-507, MCA, is amended to read: "3-15-507. Clerk to call list of jurors summoned and prepare capsules. (1) At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned and the court may hear the excuses of prospective jurors summoned. The court shall excuse any person satisfying the requirements of 3-15-313 (1)." Subsection (2) remains without change.

Section 5. Section 46-16-301, MCA, is amended to read: "46-16-301. Formation of trial jury." Subsection (1) remains without change. "(2) The qualifications of jurors and ~~exemptions~~ excuses from jury duty are prescribed in Title 3, chapter 15, part 3."

Section 6. Section 46-16-304, MCA, is amended to read: "46-16-304. Challenges for cause." Subsections (1) and (2) remain without change. (3) An ~~exemption~~ excuse from service on a jury is not a cause of challenge but the privilege of the person ~~exempted~~ excused."

7. Page 2, lines 19 through 22.

Strike: All of Section 6.

DATE

February 2, 1981

COMMITTEE ON

Judiciary

BILL NO.

S.B.
164

SB. 174

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Linda Amstrong	Private Citizen	✓	
Curtis K. Johnson	A-1 School Motor Working	✓	
Michael G. Hurley	Dept. of Revenue	✓	
Bob James	Dept. of Rev.	✓	
William Van Orden	Aide - Sen. S. Brown	✓	
Luan Trust	Mt Home P.C. 112100.		
Pat Wilson	Montico		
Charlie Crace	Mont Water Reservoir Assn		
Angeline Merrill	For Rep. Montico	no position	

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

February 3, 1901

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 24

Respectfully report as follows: That SENATE Bill No. 24

be amended as follows:

1. Title, line 6.
Following: "3-15-313,"
Strike: "AND"

2. Title, line 6.
Following: "3-15-507,"
Insert: "3-15-507, 45-15-301, AND 45-15-304"

3. Page 1, lines 12 through 15.
Following: "juror"
Reinsert: all stricken language.

4. Page 1.
Following: line 15
Insert: "(2) when it satisfactorily appears that the person
should be excused under 3-15-313 or 3-15-507."

DO PASS

4/8

continued

February 3, 1981

5. Page 1, line 19, through line 2 on page 2.

Following: "excused"

Strike: remainder of Section 2

Insert: "-- affidavit to claim excuse. (1) The court shall excuse a person from jury service upon finding that jury service would entail undue hardship for the person or the public served by the person.

(2) If a person believes jury service would entail undue hardship for him or the public served, he may make and transmit an affidavit to the clerk of the court for which he is summoned stating his occupation or such other facts as he believes will excuse him from jury service. The affidavit shall be filed with the clerk of the court who shall transmit it to the court. The court may excuse a prospective juror from jury service if the prospective juror satisfies the provisions of subsection (1).

(3) A person may also be excused from jury service upon presentation of his excuse to the court as provided in 3-15-507."

6. Page 2, line 7.

Following: "designates."

Insert: remainder of line 7

7. Page 2.

Following: line 7

Insert: "affidavit claiming an excuse as provided for in 3-15-313."

8. Page 2, lines 13 through 16.

Strike: All of Section 4.

Insert: "Section 4. Section 3-15-507, MCA, is amended to read:

"3-15-507. Clerk to call list of jurors summoned and prepare capsules.

(1) At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned and the court may hear the excuses of prospective jurors summoned. The court shall excuse any person satisfying the requirements of 3-15-313 (1)."

Subsection (2) remains without change.

Section 5. Section 46-16-301, MCA, is amended to read: "46-16-301. Formation of trial jury." Subsection (1) remains without change.

"(2) The qualifications of jurors and exemptions excuses from jury duty are prescribed in Title 3, chapter 15, part 3."

Section 6. Section 46-16-304, MCA, is amended to Read: "46-16-304. Challenges for cause." Subsections (1) and (2) remain without change.

(3) An exemption excuse from service on a jury is not a cause of challenge but the privilege of the person exempted excused."

9. Page 2, lines 19 through 22.


Strike: all of Section 6.

And, as so amended,
DO PASS

SENATE COMMITTEE JUDICIARY

Date February 2, 1981 SENATE Bill No. 120 Time _____

NAME	YES	NO
Anderson, Mike	✓	
O'Hara, Jesse A.	✓	
Olson, S. A.	✓	
Brown, Bob		✓
Crippen, Bruce D.		✓
Tveit, Larry J.		✓
Brown, Steve	✓	
Berg, Harry K.	✓	
Mazurek, Joseph P.		✓
Halligan, Michael	✓	


Secretary

Chairman

Motion: Amend SB 120 on page 3, line 22 after "commissioner",
insert "."; strike remainder of line 22, all of 23, 24, 25;
inscrt "the court may delegate to the jury commissioner the
authority to select the panel, excuse jurors under Section 3-15-313
~~and generally take charge of the jury administration...."~~
(include enough information on motion--put with yellow copy of
committee report.)